

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

DEJENA LHERISSON,

Plaintiff

v.

C.A. No.: 4:13-cv-548

NCR CORPORATION, a Maryland corporation,

Defendant.

ORIGINAL COMPLAINT AND DEMAND FOR JURY TRIAL

COMES NOW Plaintiff, DEJENA LHERISSON, by and through her undersigned counsel and sues Defendant, NCR CORPORATION, and in support thereof states as follows:

1. Plaintiff brings this action for overtime compensation and other relief under the Fair Labor Standards Act, as amended, 29 U.S.C. § 216(b).
2. Plaintiff is an individual residing in Plano, Collin County, Texas.
3. Defendant is a corporation formed and existing under the laws of the State of Maryland and maintains an office in Duluth, Georgia.
4. Jurisdiction is conferred on this Court by Title 28 U.S.C. §§ 1331 and 1337, and by 29 U.S.C. § 216(b).
5. Venue is proper in this district under 28 U.S.C. § 1391.
6. At all times material to this complaint, Defendant, NCR

CORPORATION, was an enterprise engaged in interstate commerce or, in the alternative, owned and operated a business engaged in commerce or in the production of goods for commerce as defined by §3(r) and 3(s) of the Act, 29 U.S.C. §203(r) and 203(s).

7. Additionally, Plaintiff was individually engaged in commerce and his work was essential to Defendant's business.

8. The Plaintiff has worked for Defendant from May 19, 2006 through May 19, 2011, as an account analyst in Dallas, Dallas County, Texas.

9. Defendant willfully failed to pay Plaintiff one and one-half times his regular rate of pay for each overtime hour worked.

10. The acts described in paragraphs 8 and 9, *supra*, violate the Fair Labor Standards Act, which prohibits the denial of overtime compensation for hours worked in excess of forty (40) per workweek.

11. As a result of Defendant's unlawful conduct, Plaintiff is entitled to actual and compensatory damages, including the amount of overtime which was not paid and which should have been paid.

12. Defendant willfully violated Plaintiff's right to overtime compensation under the FLSA; thus, Plaintiff is entitled to an award of liquidated damages in an equal amount as the amount of unpaid overtime pay pursuant to 29 U.S.C. § 216(b).

13. Plaintiff is entitled to an award of reasonable and necessary attorneys'

fees, costs, expert fees, mediator fees and out of pocket expenses incurred by bringing this action pursuant to 29 U.S.C. § 216(b) and Rule 54(d) of the Federal Rules of Civil Procedure.

WHEREFORE, PREMISES CONSIDERED, Plaintiff demands Judgment against Defendant for the following:

- a. Unpaid overtime wages found to be due and owing;
- b. An additional amount equal to the amount of unpaid overtime wages found to be due and owing as liquidated damages;
- c. Prejudgment interest in the event liquidated damages are not awarded;
- d. Reasonable attorneys' fees, costs, expert fees, mediator fees and out of pocket expenses incurred by bringing this action pursuant to 29 U.S.C. § 216(b) and Rule 54(d) of the Federal Rules of Civil Procedure; and,
- e. For any such other relief as the Court may find proper, whether at law or in equity.

Respectfully submitted this 20th day of September, 2013.

JURY TRIAL DEMAND

Plaintiff demands a jury trial on all issues so triable.

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